

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-4, 6, 8-15, 17, 19-25, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (US 2004/0225507) in view of Wilson et al. (US 2002/0133387) and further in view of Kipp (US 5,890,136).**

3. With respect to Claims 1, 12, 23, 24, 25 and 30: Smith discloses the use of a method, system and a computer readable medium with instructions to configure a processor to perform functions for planning a delivery of at least one good comprising:

- a. receiving a sales order with a description of a good, the location of the good and requested delivery date (Paragraph 0017);
- b. selecting a selected source location for the good (Paragraph 0020, Smith discloses determining which supplier is associated with the order, therefore the examiner considers this to be selecting the source location of the good) and an origin of the good/supplier (Paragraph 0030);
- c. determining a set of trips based on a set of geographic routes, transportation service provider information, and scheduling information (Paragraphs 0024 and 0025, ship schedules from each supplier are received, in

order to determine the delivery date. The examiner considers this to be a set of trips);

d. selecting a trip from the set of trips based on a set of criteria (Paragraph 0024); and

e. scheduling the trip such that the good is scheduled to be delivered from the source location to the destination location substantially close to the requested delivery date (Paragraph 0004 and 0034).

4. Smith discloses selecting a source location for the good which includes the supplier and the good origin, however discloses it is based on the date the goods leave the source, not the availability dates of the good at a set of source locations comprising origins, and does not disclose it is determined independently of the requested delivery date, selecting from a set of source locations and does not specifically state the scheduling of the trip is based on the requested delivery date. Wilson discloses a supply chain management system which discloses determining if the particular requested items are in stock with delivery dates, the system then holds the item for the customer to complete the purchase. Wilson discloses if the item is available based of availability dates, then it chooses the source location from a set of source locations based on the availability dates and schedules the delivery to ensure the requested delivery date is met (See Figure 5A with corresponding detailed description for the proposition that the diagram also shows selection from several locations/availability before selecting; as well as Reference Numeral 160, and 510 with corresponding detailed description and Paragraphs 0034-0041). It would have been obvious to one

having ordinary skill in the art at the time the invention was made, to modify Smith to include selecting the source location from a set of locations based on availability dates (i.e. from subsequent locations) in order to allow for the warehouse that is the best equipped to handle an order according to the customer's wants and needs to be used, in order to increase customer satisfaction and to ensure customer's needs are being met (See Wilson, Pages 1 and 2).

While the combination of Smith and Wilson teach several of the limitations of the claims addressed supra, such as determining availability at different locations for pickup, it appears that the combination does not specifically recite determining a future availability date of a good or the selection of a good available in the future. However, Kipp teaches a mass retail system for ordering and purchasing articles from remote locations for pickup, where the customer is provided with information of when an article will be available at a future date (i.e. via at least Summary and/or Col. 7, lines 31-47). Therefore, it is the Examiner's position that it would have been obvious to one of ordinary skill in the art, at the time of invention to have modified the combined the determining and selecting of a source location based on availability of the good as taught by Smith and Wilson with the ability to provide future availability of the good as is taught by Kipp for the well known purpose of providing customers with a choice to select and purchase an item with a good that is not currently available. It is also well known to provide future availability to greater inform the consumer as to when items will be available thereby potentially attracting more business through certainty.

5. With respect to Claims 2 and 13: Smith discloses determining a set of trips comprises selecting one or more geographic routes from the set of geographic routes (See Table 1, Page 3).
6. With respect to Claims 3 and 14: Smith discloses selecting one or more geographical routes comprises restricting the set of geographical routes based on a geographical classification for the source location and the destination location (Paragraph 0026, Smith discloses using zones, which the examiner considers to be geographic classification).
7. With respect to Claims 4 and 15: Smith discloses determining a set of trips comprises selecting a transportation service provider for each geographic route (Paragraph 0024).
8. With respect to Claims 6 and 17: Smith discloses the set of criteria comprises at least one criterion representative of closeness of a trip delivery date to the requested delivery date (Paragraph 0034).
9. With respect to Claims 8-10 and 19-21: See Wilson, Figure 5A with corresponding detailed description.
10. With respect to Claims 11 and 22: See Smith Paragraph 0034 and 0035.
11. With respect to Claim 29: See Smith Paragraph 0037.
12. With respect to Claim 27: Smith and Wilson disclose the use of selecting a delivery date, however fails to disclose the customer indicating it is a rush order and scheduling for the rush order. The examiner is taking official notice that the use of Rush orders are well known to one of ordinary skill in the art. This is done when ordering

same day service, or rush print jobs, or even when ordering express delivery for commercial carriers, and the rush order delivery date is scheduled there with. If the order is a rush order, Smith discloses planning for order, therefore obvious that Smith would plan for rush order. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Smith and Wilson, to have the user indicate the order is a rush order and schedule accordingly.

13. Claims 5, 7, 16, 18 and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al., Wilson et al. and Kipp in further view of Arunapuram et al. (US 2002/0019759).

14. The combination (i.e. Smith) discloses the use of trip schedules, however fails to disclose eliminating the trip schedules or selecting a trip based on dangerous goods or cost information. Arunapuram discloses the use of shipping orders, where a set of trips for a shipping order are set, and a trip is selected based on things such as cost and whether the items are hazardous material (See Arunapuram, abstract and Paragraph 0055). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Smith, to have the optimal trip selected, based on criteria, such as hazardous material and cost, as disclosed by Arunapuram, in order to provide an optimum solution based on the customer's needs (See Arunapuram, abstract and Pages 1 and 7).

Response to Arguments

Applicant's arguments with respect to claims 1-27 and 29-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. The Examiner has pointed out particular references contained in the prior art of record, within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL M. THOMPSON whose telephone number is (571)270-3605. The examiner can normally be reached on M-F (8:30 - 6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jamisue Plucinski can be reached on (571) 272-6811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael M Thompson/
Examiner, Art Unit 3629

/Jamisue A Plucinski/
Supervisory Patent Examiner, Art Unit 3629